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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,282	04/24/2000	RICHARD SETON TEDDER	6508.US.01	5742

7590 10/03/2003

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EXAMINER
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FOLEY, SHANON A

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 10/03/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/402,282

Applicant(s)

TEDDER ET AL.

Examiner

Shanon Foley

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8-18, 20-23, 26, 28-31, 38, 40, 42, 43 and 59-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-6, 8-18, 20-23, 26, 28-31, 38, 40, 42, 43 and 59-95 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, 8-16 and 59-80, drawn to a monoclonal antibody.

Group II, claim(s) 17, 81-85, drawn to a fragment or a derivative of an antibody.

Group III, claim(s) 18, drawn to a method of making a hybridoma.

Group IV, claim(s) 20-23 and 86-90, drawn to a hybridoma.

Group V, claim(s) 26, 28-31 and 91-95, drawn to an immunoassay to detect HBsAg.

Group VI, claim(s) 38, drawn to a composition for therapeutic or passive immunity against HBV.

Group VII, claim(s) 40, drawn to a method of therapeutic or prophylactic immunization.

Group VIII, claim(s) 42, drawn to an anti-idiotypic antibody.

Group IX, claim(s) 43, drawn to isolated HBsAg mutants.

The inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of group I is drawn to a first product, a monoclonal antibody that binds to HBsAg and at least two mutant forms. Any subsequent group that does not share this special technical feature lacks unity of invention.

The special technical feature of group II is drawn to a second product, a fragment or a derivative of an antibody. This group does not share the same structure or function as the first group.

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The special technical feature of group III is drawn to a method of making a third product, a hybridoma. Cells do not share the structural or functional characteristics defining the special technical feature of the first or second groups.

The special technical feature of group IV is drawn to a third product, a hybridoma. Cells do not share the structural or functional characteristics defining the special technical feature of the first or second groups.

The special technical feature of group V is drawn to a fourth product, an immunoassay. This group lacks the special technical feature of the first group because it contains additional ingredients that are not part of the special technical feature of group I and the immunoassay is practiced with the second product.

The special technical feature of group VI is drawn to a fifth product. This composition does not share the special technical feature of group I because the first product is not required.

The special technical feature of group VII is a first method of using the fifth product. This group lacks the special technical feature of the first group because it requires method steps that do not define the special technical feature of group I and the method may be practiced with the second product.

The special technical feature of group VIII is drawn to a sixth product. This group does not share the structural or functional features defining the special technical feature of group I.

The special technical feature of group IX is drawn to a sixth product. This group does not share the structural or functional features defining the special technical feature of group I.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shanon Foley whose telephone number is (703) 308-3983. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
Shanon Foley